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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Victor Ross,

10 Plaintiff,

11 v.

12 United States of America, et al.,

13 Defendants.
14

No. CV-22-00556-TUC-JCH

CASE MANAGEMENT ORDER

15 The Court enters the following Case Management Order:

- 16 1. Initial Disclosures. The parties shall exchange initial disclosures required under
17 Rule 26(a)¹ by **June 16, 2023**.
- 18 2. Pleading Deadline. The deadline for joining parties, amending pleadings, and
19 filing supplemental pleadings is **60 days** from the date of this Order.
- 20 3. Discovery Limitations. Depositions are limited to seven hours each as provided in
21 Rule 30(d)(1). Each side may propound up to 25 interrogatories, including
22 subparts, 25 requests for production of documents, including subparts, and 25
23 requests for admissions, including subparts.
- 24 4. Fact Discovery. The deadline for completing fact discovery, including discovery
25 by subpoena, is **January 31, 2024**. To ensure compliance with this deadline, the
26 following rules shall apply:
- 27 a. Depositions: All depositions shall be scheduled to commence at least **five**
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¹ All rules reference the Federal Rules of Civil Procedure unless otherwise indicated.

1 **working days** before the fact discovery deadline. A deposition commenced
2 five days before the deadline may continue up until the deadline, as
3 necessary.

4 b. Written Discovery: All interrogatories, requests for production of
5 documents, and requests for admissions shall be served at least **45 days**
6 before the fact discovery deadline.

7 c. Extensions: The parties may agree in writing, without Court approval, to
8 extend the time provided for discovery responses in Rules 33, 34, and 36.
9 Such agreed-upon extensions, however, do not alter or extend the Court's
10 discovery deadlines.

11 d. Special Provisions Regarding Rule 34 Responses: Objections to Rule 34
12 document production requests shall be stated with specificity; general or
13 boilerplate objections are not permitted. Document production in response
14 to a Rule 34 request shall be completed by the time specified in the request
15 or another reasonable time specified in the response. An objection to a Rule
16 34 request shall state whether any responsive materials have been withheld
17 based upon that objection.

18 5. Expert Disclosures and Discovery.

19 a. Plaintiff(s) shall complete expert disclosures required under
20 Rule 26(a)(2)(A)–(C) by **October 16, 2023**.

21 b. Defendant(s) shall complete expert disclosures required under
22 Rule 26(a)(2)(A)–(C) by **October 16, 2023**.

23 c. Rebuttal expert disclosures, if any, shall be made by **November 20, 2023**.
24 Rebuttal experts are limited to responding to opinions stated by initial
25 experts.

26 d. Replies to expert rebuttals, if any, shall be made by **December 29, 2023**.

27 e. Expert depositions shall be completed by **January 31, 2024**, and shall
28 commence at least five working days before that deadline.

1 f. Disclosures under Rule 26(a)(2)(A) shall include the identities of treating
2 physicians and other witnesses who will provide testimony under Federal
3 Rules of Evidence 702, 703, or 705, but who are not required to provide
4 expert reports under Rule 26(a)(2)(B). Rule 26(a)(2)(C) disclosures are
5 required for such witnesses on the dates set forth above. Rule 26(a)(2)(C)
6 disclosures shall identify not only the subjects on which the witness will
7 testify but shall also provide a summary of the facts and opinions to which
8 the expert will testify. The summary, clearly not as detailed as a
9 Rule 26(a)(2)(B) report, shall be sufficiently detailed to provide fair notice
10 of what the expert will say at trial.²

11 g. As stated in the Advisory Committee Notes to Rule 26 (1993
12 Amendments), expert reports under Rule 26(a)(2)(B) shall set forth "the
13 testimony the witness is expected to present during direct examination,
14 together with the reasons therefor." Full and complete disclosures of such
15 testimony are required on the dates set forth above; absent extraordinary
16 circumstances, parties will not be permitted to supplement expert reports
17 after these dates. The Court notes, however, that it usually permits parties
18 to present opinions of their experts that were elicited by opposing counsel
19 during depositions of the experts. Counsel should depose experts with this
20 in mind.

21 h. Each side is limited to one testifying expert witness per issue.

22 6. Expedited Procedure for Resolving Discovery and Disclosure Disputes.

23 a. The parties shall not file written discovery/disclosure motions without leave
24 of Court. This procedure applies to all disputes between parties to the

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26 ² In *Goodman v. Staples The Office Superstore, LLC*, 644 F.3d 817 (9th Cir. 2011), the
27 Ninth Circuit held that "a treating physician is only exempt from Rule 26(a)(2)(B)'s
28 written report requirement to the extent that his opinions were formed during the course
of treatment." *Id.* at 826. Thus, for opinions formed outside the course of treatment, Rule
26(a)(2)(B) written reports are required. *Id.* For opinions formed during the course of
treatment, Rule 26(a)(2)(C) disclosures will suffice.

1 action that could properly be addressed in motions for protective order
2 under Rule 26(c), disclosure under Rule 37(a), or motions to compel.³

3 b. When the parties have a dispute that could properly be addressed under
4 Rule 26(c), Rule 37(a), or motions to compel, they shall file with the court
5 a joint statement of discovery/disclosure dispute. The joint statement shall
6 not exceed 3 pages of explanatory text, with each party entitled to submit
7 one and one-half pages of that text. Parties shall not file a joint statement
8 without first seeking to resolve the matter through personal consultation
9 and sincere effort as required by Local Rules of Civil Procedure 7.2(j). The
10 purposes of the joint statement are to notify the court of the dispute, and to
11 make a record of the discovery or disclosure sought. Briefing on the dispute
12 is permitted only if ordered by the Court.

13 c. Unless the Court orders otherwise, the parties may jointly contact the court
14 by telephone or email to request a hearing on the joint statement of
15 discovery/disclosure dispute. The Court will schedule the matter at the
16 earliest convenient time, whether by telephone or in-person. The Court may
17 order written briefing if it does not resolve the dispute during the
18 conference. Any briefing ordered by the Court shall also comply with Local
19 Rule of Civil Procedure 7.2(j).

20 d. The Court may issue a minute entry setting forth the resolution of the
21 discovery dispute. After resolution, a party may file with the Court those
22 materials necessary to create a record of the discovery or disclosure the
23 Court permitted or denied.

24 e. Absent extraordinary circumstances, the Court will not entertain fact
25 discovery disputes after the deadline for completion of fact discovery and
26 will not entertain expert discovery disputes after the deadline for

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28 ³ The prohibition on “written discovery motions” includes any written materials delivered, emailed or faxed to the Court, including hand-delivered correspondence with attachments.

1 completion of expert discovery.

2 7. Dispositive Motions.

3 a. Dispositive motions shall be filed by **February 29, 2024**. Such motions
4 shall comply in all respects with the Federal Rules of Civil Procedure and
5 the Local Rules.

6 b. No party shall file more than one motion for summary judgment under
7 Rule 56 without permission from the Court.

8 c. Statements of fact required by Local Rule of Civil Procedure 56.1 shall not
9 exceed fifteen (15) pages in length, exclusive of exhibits.

10 d. The parties shall not notice oral argument on any motion. Instead, a party
11 desiring oral argument shall place the words "Oral Argument Requested"
12 immediately below the title of the motion as required under Local Rule of
13 Civil Procedure 7.2(f). The Court will issue an order scheduling oral
14 argument as it deems appropriate.

15 8. Good Faith Settlement Talks. All parties and their counsel shall meet in person
16 and engage in good faith settlement talks by **December 31, 2023**. Upon
17 completion of such settlement talks, and in no event later than five working days
18 after the deadline set forth above, the parties shall file with the Court a joint report
19 on settlement talks. The report shall confirm that good faith settlement talks have
20 occurred and report the outcome. The parties shall promptly notify the Court at
21 any time when settlement is reached during the course of this litigation.

22 9. Request for Settlement Conference.

23 a. At a party's request or on its own, the Court may require the parties to
24 participate in a pretrial settlement conference held before a Magistrate
25 Judge.

26 b. Each party and its counsel shall attend a settlement conference unless
27 specifically excused by the Court for good cause. Additionally, each party
28 shall have a representative present who has actual settlement authority and

1 may enter into a binding settlement agreement. All participants shall appear
2 in person unless the parties agree or the Court orders otherwise.

3 c. If the matter is referred to a settlement conference, each party shall submit,
4 but not file, a settlement conference memorandum to the Magistrate Judge
5 no later than five (5) days before the settlement conference. Unless the
6 Magistrate Judge orders otherwise, settlement conference memoranda shall
7 be served on every other party and include:

8 i. a general description of the claims, defenses, and issues in the
9 action, and the party's position on each claim, defense, and issue;

10 ii. a general description of the evidence the party anticipates presenting
11 at trial;

12 iii. a summary of any settlement negotiations that have already
13 occurred;

14 iv. the party's assessment of the likely outcome if the action proceeds to
15 trial; and

16 v. any other information that might be helpful in settling the action

17 10. The Deadlines are Real. The Court will enforce these deadlines. The parties should
18 plan their litigation activities accordingly.

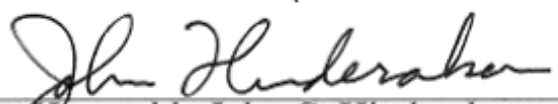
19 11. Briefing Requirements.

20 a. All memoranda filed with the Court shall comply with Local Rule of Civil
21 Procedure 7.1(b) requiring 13-point font in text and footnotes.

22 b. Citations to supporting authority shall be included in the text, not in
23 footnotes.

24 **IT IS SO ORDERED.**

25 Dated this 15th day of May, 2023.

26 
27 Honorable John C. Hinderaker
28 United States District Judge